

## **REMARKS**

The Office Action mailed June 24, 2011 (hereinafter, “Office Action”) has been reviewed and the Examiner’s comments considered. Claims 1-4, 6, 7, 9-24, 26, 27, and 34-36 are pending in this application. Claims 1-3, 6, 11, 15-18, and 23-24 are amended herein, support for which can be found in the published application at, for example, paragraphs [0086]-[0099]. Claims 4, 9, 10, 12-14, and 34-36 are canceled without prejudice or disclaimer. Applicants submit that no new matter is introduced.

### **Claim Rejections – 35 U.S.C. § 112**

Claims 2-4, 9, 11, 14, 16-17, and 35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2, 3, 11, and 16-17 are amended herein, and claims 4, 9, 14, and 35 are canceled. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 112.

### **Drawings**

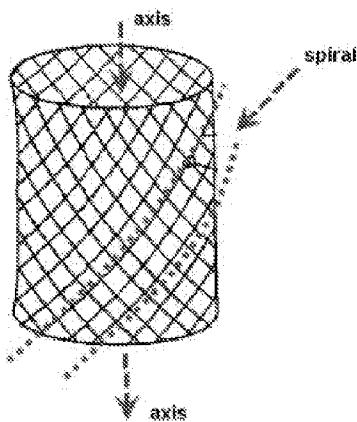
The drawings stand objected to under 37 CFR § 1.183(a) as failing to show “the periphery of a string of equal area strut lobes” of claim 35. Without conceding the propriety of the objection, in the interest of compact prosecution, claim 35 is canceled herein thereby rendering the objection moot.

### **Claim Rejections - 35 U.S.C. §§ 102/103**

Claims 1-4, 11-14, 26-27, and 34-36 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US 2005/0049683 to Gray et al. (“Gray”). Claims 6-7 and 9-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray in view of WO 03/015662 to Bucker et al. (“Bucker”). Claims 15-16, 18-19, 21, and 23-242 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray in view of WO 03/075797 to Blank (“Blank”). Claims 15, 18, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray in view of US 6,712,844 to Pacetti (“Pacetti”). Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over

Gray in view of US 5,599,311 to Raulerson (“Raulerson”). Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray in view of US 6,176,875 to Lenker (“Lenker”). Applicants respectfully traverse these rejections.

Without conceding the propriety of the rejection over Gray, or the allegations in the Office Action, independent claim 1, the sole remaining independent claim following entry of this amendment, has been amended to recite, “a plurality of electrically-conductive closed loops comprising struts forming an apertured wall of the stent, said loops being helically wound around the longitudinal axis an integral whole number of turns.” With respect to the helical disposition of the loops, recited as a “spiral” in claim 6 prior to amendment, the Office Action alleges that “Gray discloses each of the loops wrapping around an axis in the form of a spiral (Annotated Figure 10).” (Office Action, p. 9.) Applicants respectfully submit that Gray does not show or describe spiral loops or loops being helically wound around the longitudinal axis. Annotated FIG. 10 (appearing on p. 4 of the Office Action) is reproduced below.



**Annotated Figure 10**

It is clear from the drawing that no spiral loops or loops being helically wound around a longitudinal axis are disclosed by Gray, the spiral indication instead being arbitrarily drawn by the Examiner. Indeed, Gray FIG. 10 is described as illustrating “a stent mesh embodiment according to concepts of the present invention.” (Gray, paragraph [0065].) Applicants respectfully submit that a

mesh stent cannot fairly be interpreted as the claimed closed loops being helically wound around the longitudinal axis. Gray states in paragraph [0099] that FIG. 10 shows a stent mesh including “many conductive strands 221 and junctions 222.” The annotation has removed the junctions 222, but it is nevertheless clear from Gray that the junctions are between the connected mesh strands such that the pattern formed by the conductors “realized immunity from the electromagnetic interference or insult.” (Gray, paragraph [0100]. The junctions are shown in expanded view in FIGS. 11 and 12, indicating that the junctions are positioned at each strand crossing of the mesh structure. Thus, Gray does not show or describe the claimed arrangement of closed loops.

Referring back to p. 9 of the Office Action, the Examiner admits that Gray fails to disclose loops wrapping with an integral whole number of turns, but alleges that the claimed features are found in Bucker. The Examiner uses the published US application (US 2004/0249440) for translation purposes due to the priority PCT application being published in the German language. (Applicants note that Bucker is presumably cited under 35 U.S.C. § 102(a) due to the unavailability of the Bucker US application under 35 U.S.C. § 102(e)). Applicants disagree that Bucker shows these features, and also disagree that Gray and Bucker are properly combinable in view of the respective disclosures thereof to render the pending claims obvious.

The Office Action cites to Bucker FIG. 4a for purportedly showing strut loops wrapping around an axis with an integral number of whole turns. (Office Action, p. 9.) However, the Bucker disclosure states that the bars “form loops which originate *from one side or the other* of the backbone.” (Bucker (US) paragraph [0023].) Originating from one side or the other of the backbone, in view of the perspective views of 4b and 4c, means that the loops stop short of 360 degrees. Accordingly, Bucker cannot show strut loops *wrapping* around an axis with an integral number of *whole turns*. This is also clear from the other drawings and description of Bucker, which are directed to embodiments that do not form closed circuits because the individual endoprostheses bars are not brought together in a circular configuration, but are arranged in displaced relationship without having a continuous electrical connection. (Bucker (US) paragraph [0075].) As such, even assuming *arguendo* that Bucker is properly combinable with Gray, the resulting combination does

not render the pending claims obvious at least because neither Bucker or Gray discloses loops being helically wound about the longitudinal axis an integral whole number of turns.

With respect to the remaining asserted combinations, without conceding the propriety thereof or the allegations in the Office Action, Applicants respectfully submit that each remaining dependent claim depends from patentable independent claim 1, in view of the above, and is therefore patentable at least for this reason.

Accordingly, Applicants respectfully submit that each claim remaining in this case following entry of the amendment is patentable, and request favorable reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 and § 103.

### **Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

It is noted that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between the cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein should not be construed to prejudice or foreclose future consideration by Applicants of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner and/or the merits of additional or alternative arguments.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-2191, under Order No. 101671.0058P from which the undersigned is authorized to draw.

Dated: November 25, 2011

Respectfully submitted,

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